Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements

Indicator 16.10.2: Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

Institutional information

Organization(s):

United Nations Educational, Scientific and Cultural Organization (UNESCO)

Concepts and definitions

Definition:

Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information

The focus of this indicator is thus on the status of adoption and implementation of constitutional, statutory and/or policy guarantees for public access to information. The definition relates directly to “public access to information”, which is wider than, but is also very much based upon, the established fundamental freedoms of expression and association. Conversely, these freedoms also both impact on the environment for public access to information.

Concepts:

Conceptually, ‘public access to information’ refers to “the presence of a robust system through which information is made available to citizens and others.” Such a system represents a combination of intellectual, physical, and social elements that affect the availability of information to individuals. In other words, in discussing the issue of public access to information, it is important to recognize that any measurement of its practical outworking needs to take into account how individuals perceive the quality of information in the public domain, the nature of the communicative infrastructure in place to facilitate access, and how that information is ultimately utilized by individuals as members of a particular polity.

In general, then, these are the issues that go into legislation and policy on public access. More specifically, such legislation and policy take the form of Freedom of Information laws (FOI laws) which are aimed at allowing access by the general public to data held by national governments and, increasingly, by private companies whose work intersect with government operations.

The emergence of freedom of information legislation was a response to increasing dissatisfaction with the secrecy surrounding government policy development and decision making. They establish a "right-to-know" legal process by which requests may be made for government-held information, to be received freely or at minimal cost, barring standard exceptions.

Such a formulation has a basis in international agreements. For example, the right to freedom of expression, which is not only recognized as a basic human right in the Universal Declaration of Human Rights (1948), is also upheld in the International Covenant on Civil and Political Rights (1966), the European Convention on Human Rights (1950), the American Convention on Human Rights (1969) and the African Charter on Human and Peoples' Rights (1981), thus lending itself to universal political recognition and application. More specifically, in the European context, reference may be made to the Council of Europe Convention on Access to Official Documents, adopted on 18 June 2009. In the Americas, the Organization of American States' Inter-American Juridical Committee developed a set of Principles on the Right of Access to Information in 2008.

Rationale:

As suggested by the Sustainable Development Solutions Network (SDSN) and UNESCO in earlier presentations to the UN Technical Support Team (UN TST), this is a relevant and measurable indicator.

It also responds to the growing number of UN member states that have already adopted legal guarantees, and many others that are currently considering relevant legislation or regulation in the field.

The rationale for assessing the implementation dimension is to assess the relevance of legal steps to practical information accessibility. It is not a composite indicator, but a logical linkage of laws and policies to practical impact that is relevant to SDG concerns.

For this indicator, the operative words are "adoption" and "implementation". As such, it establishes: (a) whether a country (or at the global level, the number of countries) has constitutional, statutory and/or policy guarantees for public access to information; (b) the extent to which such national guarantees reflect 'international agreements' (e.g. Universal Declaration of Human Rights, etc.); and (c) the implementation mechanisms in place for such guarantees, including the following variables:

- Government efforts to publicly promote the right to information.
- Citizens' awareness of their legal right to information and their ability to utilize it effectively.
- The capacity of public bodies to provide information upon request by the public.

This indicator thus collates data from multiple sources, including National Human Rights Institutions, national and international non-governmental organizations, academic institutions, and national media regulatory authorities, among others. Such information will be gathered, processed and checked by international organizations - UNESCO and World Bank.

UNESCO collects some aspects of this data using the Media Development Indicators, in addition to the biennial World Trends in Freedom of Expression and Media Development report.

Data on the existence of freedom of information laws are available for at least 195 countries.

Comments and limitations:

This indicator does not assess the totality of "public access to information" component of the full Target of 16.10. Nevertheless, it focusses on a key determinant of the wider information environment.

Methodology

Computation method:

The method of computation is both quantitative and qualitative, with data generated from a global review of existing surveys (e.g. UNESCO's World Trends in Freedom of Expression & Media

Development reports, etc.), administrative records, expert assessments (e.g. World Justice Open Government Index), etc. More specifically, the following key variables will be assessed:

1. Does a country have constitutional, statutory and/or policy guarantees for public access to information?
2. Do those constitutional, statutory and/or policy guarantees reflect known international agreements (e.g. the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, etc.)?
3. What implementation mechanisms are in place to ensure that such guarantees work optimally?

To address these questions, the following will serve as performance sub-indicators:

- National law or constitutional guarantee on the right to information
- Country has signed and ratified relevant treaty obligations, with no significant exemptions, and these are reflected, to the extent possible, in domestic FOI legislation
- Public is aware of and exercises right to access official information
- Public bodies release information both pro-actively and on demand
- Effective and efficient appeals mechanism via independent administrative body e.g. information commissioner or ombudsman
- Any restriction on grounds of protection of personal privacy is narrowly defined so as to exclude information in which there is no justifiable public interest.

The means of verification will include:

- Any law or policy on right to information that accords with international standards
- Reports from credible agencies/experts about right to information guarantees and the extent to which they reflect international standards/agreements
- Policies of public bodies concerning release of information (which ensure readily, freely available public access to information, including online)
- Evidence of state commitment to open government e.g. publication and dissemination of laws, court decisions, parliamentary proceedings, spending programmes (vis-à-vis SDG undertakings)
- Statistical information about public requests for official information and their fulfilment or rejection
- Statistical information about appeals or complaints over information requests that have been refused

Treatment of missing values:

- ***At country level:***

An expert assessment of state-of-the-art literature on FOI laws establishes:

1. the number of countries currently with FOI laws/policies;
2. the extent to which they reflect 'international agreements'; and
3. the effectiveness of the implementation mechanisms

- ***At regional and global levels:***

An expert assessment of state-of-the-art literature on FOI laws, along with in-country data from UNESCO ACIs (Advisors for Communication and Information) in the field, establishes:

1. the number of countries currently with FOI laws/policies;
2. the extent to which they reflect 'international agreements'; and
3. the effectiveness of the implementation mechanisms

Regional aggregates:

An expert assessment of state-of-the-art literature on FOI laws, along with in-country data from UNESCO ACIs (Advisors for Communication and Information) in the field, establishes:

1. the total number of countries currently with FOI laws/policies;
2. the extent to which these laws/policies reflect 'international agreements'; and
3. the effectiveness of the implementation mechanisms in place (This aspect is measured in terms of surveys undertaken by different international organizations active in this field)

Data sources

Description:

UNESCO and World Bank reports

Other UN bodies, such as UNDP

National bodies such as commissioners responsible for right to information implementation

Media regulators

Academic and research institutions

Media support NGOs (national and international)

Methods used for data collection for this data are varied, drawing upon both quantitative and qualitative ones, including:

- Qualitative expert assessments (World Justice Open Government Index, launched in 2015 and covering 102 countries);
- Administrative records (e.g. number of requests for information; number of requests process in the last 12 months; number of women who submit such requests, etc.)
- Surveys (e.g. UNESCO World Trends in Freedom of Expression & Media Development and Media Development Indicators (MDI) reports; Open Society Foundation’s series of surveys on ‘access to information laws and practices’; the World Values Survey [www.worldvaluessurvey.org]; IPU data on access-to-information legislation and constitutional guarantees of access to information; World Values Survey on trust of news media]; etc.)

UN or relevant regional bodies that carry details of each treaty, including countries that have signed, ratified or registered any exemptions to their obligations, together with the treaty bodies’ general comments on implementation.

Various international and regional rapporteurs on freedom of expression issue country-specific reports.

For data on national laws and constitutional guarantees, sources include: national libraries, law commissions, official records of parliament and government records.

List:

UNESCO and World Bank reports; Other UN bodies; National bodies; World Justice Open Government Index, Administrative records, World Justice Open Government Index, UNESCO World Trends in Freedom of Expression & Media Development and Media Development Indicators (MDI) reports; Open Society Foundation’s, World Values Survey [www.worldvaluessurvey.org]; IPU data on access-to-information legislation and constitutional guarantees of access to information; World Values Survey on trust of news media]; etc.)

Collection process:

UNESCO uses a triangulated method to compare data for global monitoring, which includes (I) databases maintained by other international agencies; (2) own international surveys carried out in countries by independent entities and (3) modelled and estimated data, based on other data sources. More specifically, UNESCO analyses data inputs from a variety of sources to produce a consensus list of countries with freedom of information laws or equivalent. Among those organizations and experts that make available their data are: Freedominfo.org, Fringe Special by Robert Vleugels, Open Society Justice Initiative, Right to Information Rating, by Access Info Europe and the Centre for Law and Democracy, ARTICLE 19. Others include international agencies and UN bodies, such as: The World Bank, The Office of the High Commissioner for Human Rights, The UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.

Data availability

Description:

Data on the existence of freedom of information laws are available for at least 195 countries. However, for future data collection and analysis, efforts are underway to ensure that the data is analyzed to yield information on aspects relating to how FOI laws are actually "implemented", rather than just their existence.

Disaggregation:

The indicator can be disaggregated in terms of the extent to which the residence of citizens affects their ability to access information (e.g. how do rural, peri-rural, urban and peri-urban dwellers access information from public bodies). It can also be disaggregated in terms of whether gender influences ability to access information. Furthermore, aspects of how disability affects public access to information can also be assessed.

Calendar

Data collection:

From Jan-17 to Jul-17

Data release:

1-Oct-2017

Data providers

Name:

UNESCO, World Bank, UNDP, and other UN bodies; National bodies, Academic and research institutions, Media support NGOs

Description:

UNESCO, represented by National Programme Officers and regional Advisors for Communication and Information in the field offices; Other UN bodies, such as World Bank, UNDP, etc.; National bodies such as commissioners responsible for right to information implementation; Media regulators; Academic and research institutions; Media support NGOs (national and international)

Data compilers

UNESCO

References

URL:

http://en.unesco.org/

References:

1. UNESCO Media Development Indicators: Framework for assessing media development. http://unesdoc.unesco.org/images/0016/001631/163102e.pdf

2. World Trends in Freedom of Expression and Media Development: http://www.unesco.org/new/en/world-media-trends

3. Universal Periodic Review: [UNESCO contributes data on freedom of expression, including constitutional guarantees thereof, in addition to tracking killings of journalists]. http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx

4. World Justice Project. 2015. Open government and freedom of information: advancing the global conversation. Available: http://worldjusticeproject.org/sites/default/files/open_government_and_freedom_of_information_botero-ponce_may_2015.pdf.

5. Open Society Justice Initiative. 2006. Transparency & Silence: A Survey of Access to Information Laws and Practices in Fourteen Countries. Available: https://www.opensocietyfoundations.org/sites/default/files/transparency_20060928.pdf.

6. Inter-Parliamentary Union (IPU). 2009. Freedom of Expression and the Right to Information (Resolution adopted by consensus by the 120th IPU Assembly, Addis Ababa, 10 April 2009). Available: http://www.right2info.org/resources/publications/ngo-statements/ngo-statements_ipu-declaration

7. Article 19. 1999. The Public's Right to Know Principles on Freedom of Information Legislation. Available: http://www.ipu.org/splz-e/sfe/foi_ps.pdf.